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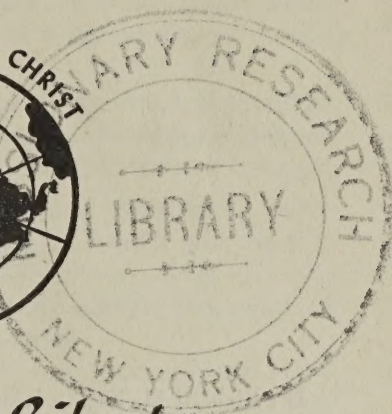
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Religious Liberty: Bulwark of Freedom

by RICHARD M. FAGLEY

*One of a series of speeches
delivered at the 1952 Assembly
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DIVISION OF FOREIGN MISSIONS

OF THE

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST
IN THE U. S. A.

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MY purpose this morning is to attempt a brief summary of the current struggle for human rights at the international level, and to say something about the place of religious liberty in that struggle.

At the Herald Tribune Forum this fall, President Griswold of Yale had this to say about a closely related objective, the effort to develop democracy:

"Democracy is a very new thing in the world. Our knowledge of men in society goes back to the Neolithic Age, 9000 years ago. Over that span of time man has seen and suffered despotisms of every conceivable variety.

"Democracy . . . first appeared in Athens about 500 B.C. It saw fitful revival in the Italian City States of the 11th and 12th centuries, and later in the Swiss cantons. But it did not make its modern appearance until the Puritan revolution in England in the middle years of the 17th century. It did not attain the form in which we know it until the 19th century. Compared with despotism it is but a few minutes old. The remarkable fact is not that it is still opposed by despotism, but that it has survived that opposition as vigorously as it has."

The story of the struggle for human rights is similar. Of course, the roots of freedom go deep. They grow out of many cultures and societies. They have been nourished by the blood of prophets and martyrs down the ages. The longing for freedom is as elemental as man himself, for both are God's handiwork.

But in previous historical periods the effort to win human rights has been carried on solely by heroic individuals and persecuted minorities. The striving of great masses of people, of whole nations and regions, for the incorporation of fundamental freedoms in public codes—this ferment is relatively new. It largely coincides with the rise of modern democracy. And the international effort to establish recognition of human rights on a global scale coincides with the birth and growth of the United Nations.

James Nichols in his new book, *Democracy and the Churches*, reminds us of the great creative re-

lationship between the principles of the Reformation and the evolution of modern democracy. The individual conscience was exalted and personal responsibility elevated in the liberating doctrine of the priesthood of all believers. As R. H. Tawney has said:

“The foundation of democracy is the sense of spiritual independence which nerves the individual to stand alone against the powers of this world.”

The self-governing congregation also contributed mightily, as a school teaching the responsibilities of democracy. Responsibility is the touchstone of the Reformation approach to human rights. As Nichols says:

“In both Church and State, the primary motive of Puritan democracy was less to claim equal rights, or to fulfill one’s personality as such—which was simply sin—than to fulfill certain specific and inalienable religious duties.”

Searle Bates and Nichols have pointed out that modern liberties are mainly the result of Protestant effort. Where the leavening influence of the Reformation is absent, there the ethos for democratic practice is lacking, there minority groups lack status, there the processes of peaceful change are wanting, there the totalitarian menace is real. Lenin was right in reserving special venom for Protestants, for the ethos of the Reformation provides the strongest dyke there is against Communist ideology. A look at the map is convincing evidence.

Lest we claim too much, it should be recalled that the historical circumstance of minority status helped to shape the views of many Protestant groups, where such groups become predominant, their practice often belied their principles, for ecclesiastical institutions are not immune from the corruption of power, however less vulnerable than secular institutions to its temptations. The theocratic Calvinists of the Massachusetts Bay Colony, for example, were a far cry from their dissenting forbears, until new dissenters arose who carried the torch of freedom to Connecticut and Rhode Island.

In view of the very limited number of people in

the world who have experienced a society of freedom, the notable fact of our time is not the menace of grave and tragic attacks on human rights, but the universal ground-swell of demand that the dignity and worth of the human person be vindicated in law and social practice.

This seems to me in a real sense a tribute to the missionary movement, which has helped to bring to peoples far beyond the lands of the Reformation the ferment for freedom which today pervades our world. It is no accident that not one country of the United Nations could bring itself to vote against the Universal Declaration of Human Rights. And most of the 8 which abstained, said they did so because the Declaration didn't go "far enough."

Just think. The idea of an international bill of rights was regarded as beyond the purview of the League of Nations. And many of those who planned the United Nations regarded the idea as too radical, or at least premature. The Dumbarton Oaks Proposals contained no provision for a Commission on Human Rights. But as a result of popular representations, and in the first instances those of the churches, the Charter, as revised at San Francisco, included such a provision and put the promotion of human rights and fundamental freedoms in the forefront of U. N. objectives. The Churches had much to do with this result. It is an historic contribution, for in the longer perspective, the effort to provide international safeguards for human rights may be seen as the most significant international development of our century.

The major concern of the churches in the work towards an international bill of rights has naturally enough been the inclusion of an adequate definition of religious freedom. In September, 1948, the International Missionary Council and the World Council of Churches issued, as you may recall, an important joint declaration on religious freedom. May I remind you of the four main points:

1. Every person has the right to determine his own faith and creed.
2. Every person has the right to express his religious beliefs in worship, teaching, and practice, and to proclaim the implications of his beliefs

for relationships in a social or political community.

3. Every person has the right to associate with others and to organize with them for religious purposes.
4. Every religious organization formed or maintained by action in accordance with the rights of individual persons, has the right to determine its policies and practices for the accomplishment of its chosen purposes.

The first three of these principles were substantially incorporated in Article 18 of the Universal Declaration, particularly when this article is taken in conjunction with other articles. The fourth principle is not stated, since the Declaration deals with the individual rather than group rights. But it is in any case a clear implication of the other three. Article 18 reads:

“Everyone has the right to freedom of thought, conscience, and religion; this includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”

The same wording is found in Article 13 of the Draft Covenant now before the U. N. General Assembly. Article 13 contains a second paragraph, however:

“Freedom to manifest one’s religion or belief shall be subject only to such limitations as are pursuant to law and are reasonable and necessary to protect public safety, order, health, or morals or the fundamental rights and freedom of others.”

This provision clearly needs improvement lest a safeguard for religious liberty become a means for its curtailment.

What is the relationship between religious freedom and the other freedoms? I have used the term “bulwark”, but no simple formula seems adequate to express this relationship.

In one sense, religious liberty is the center, the soul, of all freedom. As Searle Bates puts it:

"If man's inner spirit, his mind and soul are not free, it is impossible to imagine any other freedom can exist or can be achieved. . . . In history and in social analysis liberty broadens into social relationships from its center in the free conviction of the individual."

In another sense, religious liberty is the chief guardian of freedom. When the state recognizes freedom of religion, it recognizes the existence of higher loyalties than allegiance to itself. This, it seems to me, is why totalitarian regimes are so fundamentally opposed to religious liberty. As the World Council of Churches has said:

"The totalitarian doctrine is a false doctrine. . . . It sets political power in the place of God. It denies the existence of absolute moral standards."

At Chichester in 1949, the World Council's Central Committee stated:

"Only the recognition that man has ends and loyalties beyond the State will ensure true justice to the human person. *Religious freedom is the condition and guardian of all true freedom.*"

That puts it in a nutshell.

Yet, the other side of the medal must also be recognized. As Professor Bates says: "Religious liberty is secure only when other liberties also are achieved." He cites this pithy saying of Lacordaire, the liberal Roman Catholic writer of 19th century France:

"A free church in an enslaved country may be imagined, but nowhere can it be seen."

Luigi Luzzati, in describing the English experience, made this comment:

"Religious liberty is the most difficult and slowest of liberties to root itself in private life and in the life of the state, and while it ought to be the very basis of a civic community, it generally succeeds in being only its crowning feature."

There is then a reciprocal relationship between religious liberty and the other freedoms. This is one reason why the churches, claiming competence chiefly in regard to freedom of religion, have constantly expressed support for the totality of human

rights. This includes not only the traditional civil rights, but the newly-recognized economic and social rights as well. The missionary movement has helped to bring about this broader interest, for it is in the lands of the Younger Churches that there is the most persistent demand that economic and social rights be given coordinate recognition with the traditional rights of the West.

The discussion of the Draft Covenant on Human Rights in Committee III of the General Assembly now meeting in Paris, has focussed on the question of whether to combine civil, economic and social rights in one covenant or to put them in two covenants. Many of the underdeveloped countries have supported the one covenant approach, lest the economic and social rights be given subordinate status or be lost by the wayside. In some instances, less worthy motives, as reluctance to push forward with civil rights, have no doubt entered the picture.

On the other hand, several of the Western delegations, with scattered support from other parts of the world, as India and Lebanon, have argued for two covenants, since the two sets of rights require different methods of implementation. (Economic and social rights are conditioned by the level of economic and social development; civil rights are not so conditioned.)

At the moment, unofficial tabulations, on the basis of statements by delegations, indicate 23-4 delegations favor a single covenant, and 15-17 favor two covenants. Since this important practical issue is nevertheless a procedural matter, the presumption is that the General Assembly will again vote in favor of a single covenant.

Other issues, such as the question of reservation to the Covenant and provisions for commissions of investigation and inquiry, are scheduled to come before the Paris meeting. The Executive Committee of the Commission of the Churches on International Affairs this summer agreed on these five objectives, stated briefly, for the current phase of drafting the Covenant:

1. Inclusion of provisions for economic, social, and cultural rights, and measures to promote their observance—whether in the first covenant or in one or more additional covenants.

2. Provision for petition by non-governmental organizations and by individuals under appropriate safeguards.
3. Retention of all substantive provisions for freedom of religion in Article 13, particularly maintaining unimpaired freedom to change one's religion or beliefs.
4. Such modification of the limitations in the second paragraph of Article 13 as will most fully protect religious freedom.
5. Retention of a safeguard of parental jurisdiction in the education of children and particularly in their religious education.

Dr. Nolde is in Paris and will press for these objectives, if the General Assembly turns to substantive issues of the Covenant. The present probability is that these will be referred back to the Economic and Social Council and the Commission on Human Rights for further consideration.

In view of the many obstacles which still lie in the path of an effective Covenant, it would be foolish to attempt to predict when it will be completed. But we already have in existence the historic Universal Declaration of Human Rights, and I would like to devote the remaining moments to the question of its impact on law-making and legal decisions, and on public opinion.

The Declaration is not, of course, a legally binding document. It is rather a morally binding document. It is a solemn expression of principles and deep aspirations of the peoples, by the town meeting of the world. Thus it is no lifeless scrap of paper. Insofar as it has the sanction of public opinion, it constitutes a powerful influence on the legislative and judicial processes of states. Some proof of this is seen in the following summary of instances where the Declaration is cited or appealed to during the past three years. Most of these are given in fuller detail in the pamphlet prepared by the United Nations Secretariat, entitled *The Impact of the Universal Declaration of Human Rights*.

The U. N. General Assembly has cited the Declaration in at least twelve resolutions, dealing with questions of discrimination, the needs of non-self-governing peoples and inhabitants of trust terri-

tories, provisions for refugees and the essentials of peace. The Declaration is appealed to in the current complaint by Egypt against France in regard to Morocco. Both the Economic and Social Council and the Trusteeship Council have cited the Declaration on several occasions. It is given important recognition in the programs of UNESCO and the I.L.O.

The Declaration has significantly affected four international treaties and agreements. The statute creating the Netherlands-Indonesian Union pledged the governments to recognize certain rights, set forth in nineteen articles corresponding closely to articles of the Declaration. The Trusteeship Agreement concerning Somaliland includes a Declaration of Constitutional Principles reflecting principles of the Universal Declaration, and citing the latter as a "standard of achievement," the European Convention for the Protection of Human Rights is designed to provide first steps toward the "collective enforcement" of certain specified rights stated in the Universal Declaration. The Preamble of the Japanese Peace Treaty states that one purpose of the Treaty is to enable Japan "to strive to realize the objectives of the Universal Declaration."

The constitutions of five countries have been clearly influenced by this document. The Constitution of the Republic of Indonesia incorporates many of its provisions. The language of a number of the personal, economic and social guarantees of the new Costa Rican Constitution shows its impact. The recent Syrian Constitution reflects its influence in the category of rights set forth and in the language of articles. The same is true of new constitutions in El Salvador and in Haiti.

Here in Canada a Special Committee appointed by the Senate over a year ago urged the need for a "comprehensive affirmation, or reaffirmation, of human rights, equality before the law, and of security, as the philosophical foundation of our nationhood, that will assure continually to each Canadian that he is born free and equal in rights and dignity with all other Canadians . . . that he has freedom of thought, conscience, expression, and movement, and so on through the Universal Declaration."

The Ontario Fair Employment Practices Act cites

the Declaration in its preamble. The French National Assembly revoked, on the basis of the Declaration, the law exiling the heads of former reigning families. The Federal Republic of Germany cited it in legislation concerning displaced persons.

In several judicial decisions and opinions, too, the Universal Declaration has been cited. It has been referred to in two dissenting opinions by judges of the International Court, and in a concurring opinion by a justice of the U. S. Supreme Court. It was cited by the District Court of Appeals in California, which invoked the human rights provisions of the Charter to invalidate the Alien Land Law of California. It was cited by the New York Supreme Court in holding discrimination as to sex which was practiced by trade unions to be objectionable.

All this in three years.

Finally, let us consider a moment the impact of the Declaration on public opinion. This is close to the heart of the matter, for the strength of the Declaration—and indeed of any subsequent covenants—is the strength of the common convictions of the peoples. On progress in educational efforts to undergird the Universal Declaration, it is not possible to give a very favorable report. Some beginnings have been made. Associations for the United Nations in Norway and in the United States, for example, have made some headway in presenting the principles of the Declaration in simpler, more popular form for educational purposes. The World's Committee of YMCA's has prepared a discussion guide for young men. Our Commission has brought Human Rights Day, December 10, to the attention of national commissions and correspondents, and partial reports indicate that initial steps to use this anniversary for the promotion of human rights have been taken by church groups in a number of countries. Yet these and other examples merely scratch the surface of what is needed.

Lest there be undue satisfaction over the churches' contribution to an international bill of rights, it is well to remember that the achievement to date places an increased and continuing responsibility upon the churches. For the realization of the great dream expressed in the Universal Declaration de-

pendes principally upon more effective religious and ethical education. The basic issue is the extent to which genuine moral convictions pervade the peoples of the world community. No legal sanctions for human rights can succeed if these common convictions are not strong.

Thus, while attempts to implement the Declaration through international covenants are important, a thorough-going educational strategy is even more fundamental. The church, the school, and the family need to join forces in an educational mission to elevate the dignity and worth of the human person in the minds and practices of man. Vigorous, concerted efforts for say thirty years—the span of a generation—could conceivably work a wondrous improvement in the essential social foundations of freedom.

The moral law, which men of goodwill generally can apprehend, provides a broad base for education in human rights. Yet the heart of the task is religious. The love of God as revealed in Christ is the most compelling reason for respecting the rights of fellow men. The religious emphasis on responsibility is indispensable if liberty is not to become license. In this sense at least, religious freedom is the keystone of the arch of human rights.

And since the struggle for human rights is basically a struggle to vindicate the God-given dignity and worth of the human person, it is an essential part of the Christian mission.